

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In Re: : Case No. 10-17737
JAMES MATTHEW SPARKS : Judge Hopkins
Debtor(s) : CHAPTER 7

TRUSTEE'S MOTION TO VACATE ORDER GRANTING
APPLICATION TO PROCEED IN FORMA PAUPERIS (DOC. 7)
AND OBJECTION TO APPLICATION (DOC. 6)

Elliott Polaniecki, Trustee, hereby moves the Court to vacate the Order Granting Application to Proceed in Forma Pauperis (Doc. 7) entered on November 12, 2010.

The Trustee further objects to the Application for Waiver of Chapter 7 Filing Fee (Doc. 6).

In support of this motion and related objection, the Trustee respectfully submits the following Memorandum.

Respectfully submitted,

/s/ Elliott Polaniecki
Elliott Polaniecki, Trustee
9000 Plainfield Road
Cincinnati, Ohio 45236
(513) 793-5999 phone
(513) 793-4691 fax
e28p@aol.com

MEMORANDUM

The Debtor filed his Application to Proceed in Forma Pauperis on November 11, 2010 (Doc. 6), and the order granting same was entered the next day, November 12, 2010, before the Trustee had an opportunity to review said application.

The Disclosure of Compensation of Attorney for Debtor filed with the petition and schedules contains the certification of Debtor's counsel that she has

agreed to accept a fee of \$899.00. The Application for Waiver of Filing Fee, signed by the Debtor, confirms his promise to pay that fee. The Trustee believes that it is the policy of this Court to deny an Application for Waiver of Filing Fee if there is a payment of typical attorney fees, or an agreement for same.

The Trustee also submits that the Debtor has an interest in real property, as set forth on Schedule A, valued at \$110,000. That asset was omitted from the Application for Waiver of Filing Fee.

Accordingly, the Trustee respectfully objects to the Application for Waiver of Filing Fee and, in view of Debtor's current employment, requests that the Court order payment of the \$299.00 filing fee on such terms as the Court deems appropriate.

Respectfully submitted,

/s/ Elliott Polaniecki
Elliott Polaniecki, Trustee
9000 Plainfield Road
Cincinnati, Ohio 45236
(513) 793-5999 phone
(513) 793-4691 fax
e28p@aol.com

NOTICE OF MOTION / APPLICATION / OBJECTION

The Trustee herein, Elliott Polaniecki, has filed papers with the Court to vacate the order granting application to proceed in forma pauperis, and objecting to the application for same.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the Motion/Application, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the Motion/Application**, you must file with the Court a response explaining your position by mailing your response by regular US Mail to:

Clerk, U.S. Bankruptcy Court
Atrium Two, Suite 800

221 East Fourth St.
Cincinnati, OH 45202

OR your attorney must file a response using the Court's ECF System.

The Court must **receive** your response on or before the date above.
You must also mail a copy to:

Elliott Polaniecki, Trustee
9000 Plainfield Road
Cincinnati, OH 45236

Office of the U.S. Trustee
36 E. Seventh Street, Suite 2030
Cincinnati, OH 45202

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion/Application/Objection and may enter an Order granting that relief.

Dated: December 22, 2010

/s/ Elliott Polaniecki
Elliott Polaniecki Trustee
9000 Plainfield Road
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(513) 793-5999
(513) 793-4691
e28p@aol.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by regular U.S. mail or served electronically to the following December 22, 2010.

Diana Khouri, Esq.
Serve electronically

Office of the U.S. Trustee
Serve electronically

James M. Sparks
4042 Lansdowne Avenue
Deer Park, Ohio 45236

/s/ Elliott Polaniecki
Elliott Polaniecki